

**BOARD OF APPEALS CASE NO. 5038**

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**BEFORE THE**

**APPLICANTS: Carner & Renee Weaver**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct an  
accessory building higher and more than  
50% larger than the square footage of the  
dwelling; 1237 Sharon Acres Road, Forest  
Hill**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 4/5/00 & 4/12/00**

**HEARING DATE: May 24, 2000**

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**Record: 4/7/00 & 4/14/00**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Carner & Renee Weaver, are requesting a variance to Section 267-26C(1) of the Harford County Code to permit the construction of a detached garage which will be higher and more than fifty (50%) percent larger than the size of the habitable space of the dwelling in an AG/Agricultural District.

The subject property is located at 1237 Sharon Acres Road, Forest Hill, in the Fourth Election District. The parcel is more specifically identified as Parcel 359, Lot 2, in Grid 2A, on Tax Map 33. The parcel is approximately 1.05 acres in size, all of which is zoned AG.

Ms. Renee Weaver appeared and testified that she and her husband are seeking a variance in order to build a 30 foot by 40 foot detached garage at the rear of their property. At the present time, the property is improved by a 12 foot by 55 foot mobile home. However, according to Ms. Weaver, they plan to remove the mobile home and build a house on the property within the next two years. Ms. Weaver testified that the Applicants are currently storing their personal property at a commercial storage facility in Perryman. They would like to use the proposed garage for storage of their property and as a place where her husband can do repair work on their vehicles or other activities typically associated with a residential garage. Ms. Weaver indicated that the property is too long and narrow to allow construction of a home with an attached garage. The home which they plan to build will utilize all the available buildable space across the width of the property, leaving no space for a garage, except a detached structure as proposed by the Applicants.

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It was Ms. Weaver's testimony that the lot is unique in that its shape is long and narrow and it slopes downward considerably from the road, limiting the buildable area for both the future house and the proposed garage. Ms. Weaver offered exhibits were admitted showing photographs of other similar garages which have been constructed in the neighborhood, as well as a site plan for the proposed structure. Ms. Weaver also indicated that there would be no commercial work performed in the proposed garage or on any vehicles other than the Applicant's personal vehicles. She indicated that she and her husband would comply with the conditions recommended by the Department of Planning and Zoning in its Staff Report. She also testified that, in her opinion, there would be no negative impact as a result of the approval of the variance, based upon the fact that other neighbors have similar garages on their property, and the long shape of the lot will place the proposed structure well back and downward from the roadway.

Mr. Carner Weaver also appeared and testified, in agreement with the testimony offered by Ms. Weaver. Mr. Weaver added that he believed that the proposed garage would actually add to the value of the property and would enhance the property in general. He also indicated that there would be no detrimental effect on adjoining properties. He testified that denial of the variance would cause the Applicants practical difficulty in that they would be forced to continue storing their belongings quite a distance away, and even those belongings which are currently located in their mobile home would have to be moved to a storage facility upon construction of their house. If the variance were approved, Mr. Weaver noted, they would be able to store their personal belongings on their property.

The Department of Planning and Zoning, whose Staff Report is in the file, has recommended approval of the requested variance, provided that the garage is not used for storage of commercial vehicles or contractors' equipment and provided that the garage shall not be used in the furtherance of a business. This recommendation was based upon the Department's findings that:

**"Buildings of this size are not uncommon in this area of the County. Due to the topography of the lot, the garage will set substantially below the grade of the road and the existing dwellings along the road. Therefore, the proposed variance should not have a negative impact on the neighborhood or the intent of the Code. The property backs up to a large area of dense woodland and a stream." (See page 4 of the Staff Report)**

The Department also noted that when the Applicants construct their new 26 foot by 48

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foot home with a finished basement, as they have indicated they plan to do in the near future, the garage will comply with the requirements of the Code at that time.

No witnesses appeared in opposition to the request.

### **CONCLUSION:**

The Applicants are requesting a variance to Section 267-26C(1) of the Harford County Code to construct a 30 foot by 40 foot detached garage which is higher and more than fifty (50%) larger than the habitable space of the current dwelling located on the property.

Section 267-26C(1) of the Harford County Code states:

“In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of § 267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1.”

Further, Section 267-11 sets forth the requirements which must be met in order for a variance request to be approved. This section of the Code provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

The uncontradicted evidence, which included the testimony of the Applicants and the Staff Report submitted by the Department of Planning and Zoning, supports a finding that the subject property is unique because of its long and narrow shape and a significant downward slope of the property from the roadway to the rear of the parcel.

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While this configuration reduces the buildable area on the property, it also reduces any visual negative impact that the construction of the garage might have on a more level lot or one less deep and with wider road frontage. Both witnesses testified, and the Hearing Examiner finds, that there will be little or no substantial detriment to the adjoining properties and no adverse impact to the neighborhood given the proposed location of the garage well back from the roadway, the rural, agricultural nature of the surrounding neighborhood, and the fact that there are several other similar garage structures already existing on other neighboring properties. There was no evidence to suggest that approval of the variance would materially impair the purpose of the Code, or the public interest. To the contrary, the evidence demonstrates that construction of the proposed garage would enhance the value of the property and improve the appearance and function of the property by allowing vehicles and other personal property to be stored inside the structure, rather than within public view.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to permit construction of a 30 foot by 40 foot detached garage which is higher and more than fifty (50%) percent larger than the existing dwelling on the property be approved with the following conditions:

1. The Applicants shall obtain all necessary permits and inspections.
2. The Applicants shall construct the garage in accord with the site plan submitted to the Department of Planning and Zoning;
3. The garage shall not be used for the storage of commercial vehicles, contractors' equipment or other commercial materials;
4. The building shall not be used in the furtherance of a business.

Date JULY 19, 2000

Valerie H. Twanmoh  
Zoning Hearing Examiner